

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

_____)	CIVIL ACTION
EUCLIDES SOTO, LOUIS A. MARTINEZ,)	NO.: 04-10892-JLT
JOSE RAMIREZ, CLEMENTE HERNANDEZ,)	
CESAR PIZARO, ELISON PENA,)	
JUAN COLON, JOSE ORTIZ,)	
RAFAEL TORRES, ANGEL BAEZ,)	
ANTONIO MARTINEZ, WILFREDO ORTIZ,)	
EULOGIO ORTIZ, MIRRAIN MIRANDA,)	
RAFAEL MORENO, NELSON ACEVEDO,)	
and RAMON RODRIGUEZ,)	
Plaintiffs,)	
)	
v.)	
)	
)	
UNITED STEELWORKERS OF AMERICA,)	
LOCAL 421-U, AND UNITED STEELWORKERS)	
OF AMERICA,)	
Defendants.)	
_____)	

MOTION TO DEFAULT ON CLAIM AGAINST DEFENDANTS

Plaintiffs move for default on the remaining claim against the defendants for the violation of court order:

1. Prior to this motion, there was consultation between the parties under the local rules.
2. On November 3, 2004, the court entered the order annexed hereto in regard to production of documents.
3. The defendants violated the order by failing to produce 243 pages of collective bargaining agreements, notes from negotiations, etc. until one and a half day before the pre-trial, and ten days before trial.

4. However, before this incredibly late production, there were depositions of 19 people, and trial preparation three times, and the fielding of dozens of dispositive motions.
5. All of this late disclosed material is central to the case.
6. All the late disclosed papers will be available to the court for review and involve every material claim and defense of the case because the production is too voluminous to file electronically.
7. For the clear violation of a court order, the court can default the claim, and should here, see Fed. R. Civ. P. 37.

Respectfully submitted,

Date: January 11, 2007

/s/ Robert O. Berger
Robert O. Berger (BBO#: 038900)
John L. Diaz
11 Beacon Street, Suite 1210
Boston, MA 02108
(617) 423 -7575 Tel
(617) 275-8000 Fax
Attorney for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the above document was served by electronic transfer on the attorney of record.

Dated: January 11, 2007

/s/ Robert O. Berger
Robert O. Berger (BBO#: 038900)

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

EUCLIDES SOTO, et al

V

CIVIL ACTION No. 04-10892 -JLT

SHERMAN-FEINBERG

DISCOVERY ORDER

TAURO, J.:

On or before, 11/17/04 the parties shall have exchanged and reviewed (1) all documents in accordance with Local Rule 26.2(A), and (2) sworn statements in accordance with Local Rule 26.1(B), and (3) a list of persons they wish to depose. A list of the proposed deponents should be presented to the Court at the scheduling conference.

In addition, the parties shall, without awaiting a discovery request, provide to other parties:

(A) the name and, if known, the address and telephone number of each individual likely to have discoverable information relevant to disputed facts alleged with particularity in the pleadings, identifying the subjects of the information and

(B) a copy of, or a description by category and location of, all documents, data compilations, and tangible things in the possession, custody, or control of the party that are relevant to disputed facts alleged with particularity in the pleadings.

No additional discovery shall take place without further order of the court.

Counsel shall notify the court in writing, no less than (5) days prior to the scheduled conference, of pending motions. Any motion not brought to the court's attention (5) days prior to the scheduled conference will be deemed denied as moot.

The court does not accept any letters requesting decision or action. Any such request must be in the form of a motion. Letters submitted for information purposes only must be addressed to Zita Lovett, Deputy Clerk.

IT IS SO ORDERED.

11/03/04

By the Court,
/s/ Zita Lovett,
DEPUTY CLERK